

ORIGINAL

Stenographic Transcript Of

HEARINGS

Before The

**CONFERENCE COMMITTEE OF HOUSE COMMITTEE
ON INTERSTATE AND FOREIGN COMMERCE AND
SENATE COMMITTEE ON PUBLIC WORKS**

UNITED STATES SENATE

H.R. 10498 and S. 3222

PROPERTY CLAIMS AIR ACT AMENDMENTS OF 1976

September 29, 1976

WASHINGTON, D.C.

REYNOLDS REPORTING ASSOCIATES INC.

Official Reporters

1028 CONNECTICUT AVE., N.W., SUITE 1100

WASHINGTON D.C. 20036

833-3598

PART 3

H.R. 10498 and S. 3219

PROPOSED CLEAN AIR ACT AMENDMENTS OF 1976

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WEDNESDAY, SEPTEMBER 29, 1976

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Conference Committee of House
Committee on Interstate and
Foreign Commerce and Senate
Committee on Public Works,

Washington, D. C.

The conference committee convened at 5:50 p.m., pursuant
to call, in room S-407, The Capitol, Hon. Haxley O. Staggers
(chairman of the conference committee) presiding.

Members of the Senate Present: Senators Muskie, Culver,
Morgan, Baker, McClure and Domenici.

Members of the House Present: Representatives Staggers,
Rogers, Preyer, Symington, Carney, Scheuer, Waxman, Florio,
Maguire, Devine, Broyhill, Carter and Madigan.

Senate Staff Present: John Yago, Leon Billings, Philip
Cummings, Bailey Guard, Harold Brayman, Richard Grundy.

House Staff Present: Jeff Schwartz.

1 Mr. Staggers. The committee will come to order. As I
2 have said before, everyone that can get a seat, get a seat.

3 When we left off yesterday, I believe we had presented
4 some items to the Senate, and I would like to have some response,
5 if I might, from the Senators to our proposition.

6 Senator Muskie. Mr. Chairman, may I say that, first of
7 all, I apologize for the delay in the development of the
8 Senate position, but I think you understand. We have spent,
9 I think, some six hours today on it, and it was not easy, but
10 I think the motivating spirit was one of trying to come as
11 close as possible to the House position. So this is a good
12 faith and carefully worked out response in attempt to close the
13 gap to the point where we can maximize the possibilities of an
14 agreement.

15 There is no pussyfooting in it. It is a straightforward,
16 direct reflection of some pretty hard debates in the Senate
17 caucus all through the day. I am just going to characterize
18 it in that way.

19 I would ask Leon now to present the proposal.

20 Mr. Billings. Mr. Chairman, referring to the document
21 that Congressman Rogers presented the Senate last night as the
22 House proposal, including the addition that he transmitted with
23 it, the Senate accepts that document as an outline of the
24 Prevention of Significant Deterioration proposal, with the
25 following changes:

1 First, that mandatory Class I areas be as described in the
2 Senate bill.

3 Second, that there be no discretionary Class I areas and
4 no concurrence of the Federal Land Manager where a State can
5 move an area from Class II to Class I.

6 Three, that the Senate conferees adopt the House procedure
7 relative to going from Class II to Class III with Class II
8 increments as proposed by the proposal, to be modified in one
9 respect -- the three-hour short-term sulfur dioxide standard
10 in Class II should be 550 instead of 485.

11 In respect to the House proposal as regards the definition
12 of major emitting facility, the Senate proposes an additional
13 provision to require a study and report to the Congress on what
14 a 250-ton limit encompasses without in any way affecting the
15 implementation of the 250-ton requirement.

16 With respect to the four pollutants for which the Senate
17 had no provision, that there be report language which would
18 require the administrator to report to the Congress if he
19 found that the regulation of any of those pollutants was
20 infeasible, but adopting the House proposed language with
21 regard to regulating those proposals.

22 With respect to the review by the EPA Administrator of the
23 best available control technology in the Class III region, that
24 that review only be as regards best available control
25 technology for sources for which no new source performance

1 standard has been revised or issued pursuant to the House
2 amended new source performance standard provision.

3 That the Senate does not accept the proposal referred to
4 as the McKay amendment, and in preference would have the air
5 quality values test. In addition to that item, agreed upon
6 language on new source performance standards for the report,
7 smelter language for the report, high altitude language for the
8 report.

9 In addition, in light of the difficulty of reaching
10 agreement on the so-called Tower air-conditioning amendment,
11 that the Senate recedes from insisting on the Tower air-
12 conditioning amendment, and that would be deleted from the
13 bill.

14 And as to autos, the Senate would propose to modify the
15 House proposal to require that the cars in 1979 meet the
16 statutory standard for hydrocarbons and carbon monoxides. And
17 the Senate has reservations to the appropriateness of the
18 waiver for diesel and would not accept that.

19 Mr. Staggers. What about beyond 1979?

20 Mr. Rogers. That was the only change from the one
21 proposed.

22 Senator Muskie. I think, Mr. Chairman, that Leon has fully
23 presented the outlines. We will be glad, of course, to enter
24 into any discussion about any of the items that the House would
25 like. But I think he has touched on every point.

1 Mr. Staggers. I wish, Senator, if you might just excuse
2 me, that he would go over that last thing on the automobiles.

3 Mr. Billings. On the automobiles, the 1979 standards
4 would be .4, 3.4 and 2.0. 1980 standards would be the same.
5 1981 standards would be .4, 3.4 and 1.0, and that standard
6 would continue into the future.

7 Mr. Staggers. Someone wants to be recognized on this
8 side.

9 Mr. Carney. What about that smelter problem on making
10 workers whole when they are shut down for air-conditioning
11 purposes? We made a provision that the workers would be made
12 whole on their wages.

13 Senator Muskie. That was an item we considered yesterday.
14 We could not reconsider it today. We communicated our
15 decision on it yesterday. We did not reconsider it today.

16 Mr. Staggers. What was the decision yesterday?

17 Mr. Billings. The Senate voted to reject that
18 provision.

19 Senator Muskie. And that item did not come back to us in
20 the House offering. We limited our consideration to the items
21 in the House offering, so we did not reject it again or even
22 consider it again.

23 Mr. Carney. I understood it was counterproposed again
24 yesterday.

25 Senator Muskie. Last night? If it was, we missed it.

1 Mr. Rogers. I thought we had. But it was to provide
2 that during an interim period, not continuous control but
3 intermittent control, that if in moving to that controlled
4 system under an interim plan, they closed the plant down for
5 two or three days, that the laborer doesn't have to suffer the
6 penalty and have no wages in that period. That is basically
7 what it is saying -- in other words, that the laborers do
8 not have to pay for moving toward the interim concept.

9 Senator Muskie; I tell you, one of the reservations we
10 had about this is that one of the arguments against interim
11 controls is that it does result in the kind of trauma that
12 comes from shutting down a plant.

13 Mr. Rogers. We agree against interim --

14 Senator Muskie; If you eliminate that out of the tax-
15 payers' pockets, you encourage the use of intermittent controls
16 as a substitute for continuous controls. That was the reason
17 why we did it. But we did not understand it was coming back
18 at us in last night's package, so we did not reconsider it. I
19 am simply giving you the explanation of yesterday's action.

20 Mr. Carney. I can understand the thinking about wanting
21 to improve controls, but why should the workers be the guys to
22 suffer when the companies have intermittent controls? Let's
23 not give them intermittent controls, then, if we are going to
24 do that.

25 Senator Muskie. I am for that.

1 Mr. Carney. So am I.

2 Mr. Rogers. Could I ask, would it be possible while you
3 go to vote if you could just look at that for us as you come
4 back? Would that be possible to let us have a relook at that
5 while we caucus on this?

6 Mr. Carter. Mr. Chairman, if we have the best available
7 technology and do not exceed the primary and secondary standards
8 in these big steel areas, there will be no people out of work,
9 no necessity of pay if we just reserve our primary and secondary
10 standards, which I have tried to sell to you folks, and did
11 sell twice on the floor of the House.

12 Now, you want it both ways for that particular industry.
13 You want to exceed the primary and secondary standard by
14 15 percent, and then if they go down to intermittent controls,
15 if they exceed those things, you want pay for the workers. I
16 don't object to pay for workers, but we are going in a rather
17 tortuous route.

18 Mr. Carney. Would the gentleman yield?

19 Mr. Carter. Of course, I will yield.

20 Mr. Carney. We are not talking about the steel industry.
21 We are talking about smelters, which is primarily a mining
22 thing, not the basic steel industry in this case.

23 Mr. Carter. As I understand, this involved any industry,
24 including the steel industry.

25 Mr. Carney. Only smelters.

1 Mr. Staggers. We will caucus in this room on the left.
2 If the members will assemble, we will have a caucus.

3 (Brief recess)

4 Mr. Staggers. The committee will come to order.

5 I will call on our subcommittee chairman to explain our
6 position on the House side.

7 Mr. Rogers. Thank you, Mr. Chairman.

8 In response to the Senate proposal -- and we appreciate
9 the effort the Senate has gone to in trying to reach agreement;
10 we realize you have worked hard, and we are trying to respond
11 in the best manner we can -- your proposal that we take Senate
12 Class I mandatory proposal is agreeable.

13 Senator Baker. I am sorry; would you say it again.

14 Mr. Rogers. Your first proposal, we accept the Senate
15 Class I mandatory classification. We agree.

16 The second was to delete the discretionary Class I with
17 no Federal Land Manager concurrence for State to move from
18 II to I. Now, we would agree to that, but we would ask that
19 national monuments over 10,000 acres be included.

20 Senator Baker. Included in what?

21 Mr. Rogers. As discretionary Class I as under the House
22 bill. In other words, restrict it just to that. Now, this
23 would mean about 20 areas. That reduces what we had, some 100
24 areas to about 20.

25 Senator Domenici. But it still keeps the House language

1 with reference to what happens to those. Is that what you
2 are saying?

3 Mr. Rogers. On those 20 only.

4 Senator Baker. Does this still include the House design
5 which would provide that they would automatically escalate to
6 Class I unless the State determined they should remain within
7 Class II within a year?

8 Mr. Rogers. Just for these particular ones.

9 Senator Baker. But this is based on the use and
10 utilization of the House automatic formula?

11 Mr. Rogers. Which would be the formula that we had
12 specified in here, but only for that 20.

13 Senator Baker. Mr. Chairman, I won't take long except
14 to say we discussed this probably longer than any other in the
15 Senate caucus, lasting most of the day. And I am not trying to
16 overexpress my point of view nor overemphasize my feelings
17 about it, but the automatic nature of the House language is
18 objectionable to me, and I strongly oppose that. I do not
19 particularly object to your inclusion of 20 monuments in Class
20 I. I don't think it is a good idea, but I won't object if you
21 used the Senate language which made it discretionary up to Class
22 I by an affirmative action by the State.

23 I do not insist the Land Manager even be consulted, but
24 I oppose it happening automatically unless the State acts to get
25 it in category II. That point of view, I might add, was

1 adopted and embraced by all the Senate conferees in the caucus.

2 Mr. Rogers. May I say, I think probably the other that
3 you had suggested would maybe be outside the scope of the
4 conference.

5 Senator Baker. Now, you are talking about the inclusion
6 of 20? I think that is outside the scope of the conference.
7 That is a parenthetical remark of mine to measure the intensity
8 of my feeling of it. But I think it is beyond the scope of
9 this conference.

10 Mr. Rogers. Well, if you really have no objection to
11 them being in a Class I, is there a real objection to
12 including them?

13 Senator Baker. There is a very real objection. The
14 real objection is to the mechanism that permits the enlarging
15 of Class I on the default of action. My objection is to that
16 happening by the passivity of the State. I have no objection
17 to Class II areas being escalated to Class I on the affirmative
18 action of a State. But as a matter of principle, I do not want
19 it to happen by failure of action.

20 Senator McClure. Mr. Chairman, I think it should be fair
21 that, while he says his expression of opinion was that shared
22 by the Senate conferees, it was on the latter part, not upon
23 the inclusion of the monuments in Class I.

24 Mr. Rogers. Thank you.

25 Now, on the Class II increments, we would ask that you

1 consider the House compromise, which went from our figure of
2 325 -- your figure was 700 -- to 485. You had, I think,
3 proposed 550. And I realize you want to get together to give
4 us a response. There are very few we are asking for a response
5 on.

6 D, which is study report of Congress on the 250, it is
7 agreed.

8 Senator Domenici. I might say in response to your request
9 that we go from 550 to 485, it was only because we went to 550
10 that we got agreement on the three classifications as proposed
11 by the House. That was the only change we made there, and that
12 change caused the proposal to be acceptable that went along
13 with three classifications. So it is inherent to our agreeing
14 to the entire thrust of the House's idea of the I, II and III
15 classes.

16 Mr. Rogers. All right, sir.

17 Anyway, we agreed on D, the fourth.

18 On the fifth, on the four pollutants, the report language
19 that the administrator report to Congress if he finds the
20 regulations to be infeasible -- we are in basic agreement on
21 this, I think, that he should go ahead and issue the regulations,
22 as you say. But we would ask that the language be put in
23 the conference report stating that when this is done, after the
24 studies are made and so forth, he go ahead with his regulation
25 but he report to the Congress the practicality and feasibility

1 on that.

2 Senator Baker. Could I interrupt a second? I am sorry
3 to interrupt this. I think we are making good progress, and I
4 think we will continue. I have just been notified that the
5 Nuclear Fuel Assurance Act is the pending business on the floor.
6 I am the ranking member on the Joint Committee on Atomic
7 Energy. I have to leave, but Senator McClure will continue.

8 Mr. Rogers. Thank you. I appreciate it.

9 All right. The next is EPA review of BACT in Class III
10 only for sources for which there is no BACT, no new or revised
11 standard or requirement. We agree.

12 The next was no McKay. Now, we accept the Senate air
13 quality test, but we would like to include visibility as one
14 of the factors to be included, retain the ceiling of the
15 original House Class II numbers for SO₂ and particulates just
16 for that particular item.

17 Mr. Billings. The ceiling of the original House Class II
18 numbers?

19 Mr. Rogers. Yes.

20 Mr. Domenici. Might I ask a question, Mr. Chairman?

21 Didn't we intend to have visibility in our --

22 Mr. Billings. Yes, that is completely considered.

23 Mr. Rogers. That is good. We didn't know that. That is
24 fine. So we are even closer.

25 Then the next is report language on smelters, tall stacks

1 and high altitude. We are agreeable. The staffs, we under-
2 stand, got almost together -- only a word or two, and I think
3 that is about all. So we are agreeable, basically, there.

4 Senator McClure. I haven't seen the language yet.

5 Mr. Rogers. Neither have we, but we understand it can
6 be worked out between the staffs.

7 And then the next, the Senate was receding from the Tower
8 air conditioning amendment, of course. That is good.

9 Now, on autos, we would like to ask you to consider --

10 Mr. Carter. Mr. Chairman, before we come to that, I will
11 have to say the staffs may be near agreement, but as far as I
12 know, the minority staff has not been consulted, and we don't
13 know anything about it. It hasn't been shown to us.

14 Mr. Rogers. I don't think it has been shown to anyone
15 yet, we understand.

16 Mr. Carter. How can you agree with something you don't
17 know about?

18 Mr. Rogers. We are agreeing in principle that this can
19 be handled in the statement of managers, if the language is
20 agreeable to members.

21 Mr. Carter. Yes, if the language is agreeable to the
22 members, it will be all right, of course, but I want to see the
23 language.

24 Mr. Rogers. Well, I would, myself.

25 We would accept the Senate's provision on autos but ask

1 you to consider this change: In 1979, 1.5, 15 and 2. I think
2 you had 2. In other words, we would ask you to look at
3 allowing us to retain those figures in 1979. In other words,
4 I think you asked us to look at .41, 3.4, 2 in 1979. We would
5 urge that we continue 1.5, 15 and 2 in 1979. Then everything
6 else is the same. And we would

7 And we would ask that you look at the waiver for Diesel
8 or set a standard of NOx for diesel -- either way you might want
9 to consider it, if you want to consider it at all -- of 1.5.
10 And the reason we thought it might be well for us to consider
11 this is that some of our automobile companies want to get into
12 the diesel business. The foreign companies are now into
13 diesels, and we may later want to change figures, the next time
14 we look at this bill.

15 Senator McClure. For 1979?

16 Mr. Rogers. No, it would not be for 1979. That would not
17 pick up until 1981. From 1981 to 1985 for diesels.

18 Senator McClure. What is your figure for 1980? I
19 didn't get that.

20 Mr. Rogers. As you proposed.

21 Senator McClure. .41, 3.4 and 2.

22 Mr. Rogers. But we would ask for 1981 for diesels, either
23 a set figure for NOx of 1.5 or, in the alternative, a waiver
24 that could be given, 1.5. And the reason is because we think
25 there is controversy as to whether our companies can move into

1 the diesel technology up to 1.5.

2 Mr. Broyhill. Mr. Chairman, clarification. You said
3 1981 you were proposing a NOx standard of 2.0. Is that
4 correct?

5 Mr. Rogers. 1.0; I am sorry. 1981 was the proposal of
6 1.0, and we agree on that.

7 Mr. Waxman. Mr. Chairman, a further clarification. As
8 I understand it, the diesel was a waiver or 1.5 standard from
9 1981 to 1985?

10 Mr. Rogers. That is correct.

11 Senator McClure. It is a waiver to 1985.

12 Mr. Rogers. Of course, where you put in the .4 research
13 objective, we would ask that the companies submit a plan as to
14 how they plan to do that. And we asked you to reconsider lost
15 pay.

16 Thank you.

17 Senator Muskie. I think we should caucus, and we may have
18 time before the next vote.

19 (Brief recess)

20 Mr. Staggers. The committee will come to order.

21 The Senate has been in caucus, and we would like to hear
22 from the Senator from Maine.

23 Senator Muskie. I yield to Leon.

24 Mr. Staggers. Mr. Billings is a new Senator.

25 (Laughter)

1 Senator McClure. Don't say that. We are all sensitive
2 about that.

3 (Laughter)

4 Mr. Staggers. We will strike the record on that, then.

5 Mr. Billings. I think I would rather be a Congressman,
6 thank you.

7 (Laughter)

8 Mr. Billings. Mr. Chairman, as regards the penultimate
9 proposition of the House --

10 Senator Muskie; Why don't we let him present it to you
11 while we vote?

12 Mr. Billings. That is not fair.

13 (Laughter)

14 Mr. Billings. Would you stay here, please? I am not
15 sure I can adequately represent what we have done.

16 Senator McClure. I will stay.

17 Mr. Billings. I have got some rather garbled notes here,
18 because we went at this sort of backwards.

19 In respect to the House proposal regarding national
20 monuments, the Senate rejects the discretionary national
21 monuments and proposes two things -- first, require the Federal
22 Manager to review national monuments, primitive areas and
23 national preserves, and require that the Federal Land Manager
24 recommend any appropriate areas for Class I designation where
25 air quality related values are an important attribute of the

1 area.

2 The Federal Land Manager's recommendation is to be made
3 within one year, to be transmitted to the State and to the
4 Congress, with the State then having discretion to make a
5 decision as to what to do with those lands.

6 In addition, for the Federal Land Manager to review the
7 appropriateness of designation of national forest land as Class
8 II and setting aside the prohibition on designating forest
9 lands as Class III, as in the House bill.

10 Secondly, on the question of the Class II, III, our
11 increment to sulfur oxides, the Senate proposes 512.

12 Number three, on the question of the air quality values,
13 the McKay amendment, the Senate accepts the House position
14 that the House-passed Class II increments be a ceiling and
15 visibility be referenced in the air quality --

16 Senator McClure. We did correctly understand your
17 proposition, that you were proposing the House-passed numbers
18 as ceilings and not the House-offered compromise numbers?

19 Mr. Rogers. That is correct, sir.

20 Mr. Billings. The Senate recedes on the issue of lost
21 pay, accepts the House position.

22 The Senate does not recede on the issue of auto emissions
23 as to 1979 or the waiver for diesel, but does accept the House
24 proposal that the .4 NOx research objective require a program
25 be submitted by the auto companies.

1 Mr. Staggers. I thought .4 was the one submitted by the
2 Senate and not the House.

3 Mr. Billings. We are accepting the House amendment to
4 that provision.

5 Mr. Rogers. That is on research.

6 Could you give us a repeat on national forests?

7 Mr. Billings. Senator McClure, would you tell us what we
8 did on national forests? I think you are better than I am.

9 Senator McClure. What we tried to do was match the
10 requirements on the upgrading Class I and the downgrading to
11 Class III by separating and say, all right, study the national
12 monuments, primitive areas, national preserves and make a
13 recommendation for upgrading to Class I; at the same time study
14 the forests for a recommendation in regard to the Class II and
15 downgrading Class III.

16 Mr. Rogers. A study would be done?

17 Senator McClure. A study by the Federal Land Manager and
18 the recommendation -- the study in both instances, and the
19 recommendations must be made within one year, with the
20 recommendation going to the State involved and to the Congress.

21 Mr. Rogers. All right, sir.

22 Mr. Staggers. The House will have a caucus back there,
23 then.

24 Brief recess)

25 Mr. Staggers. The committee will come to order. We do

1 have to have quiet before we get started, and we will ask
2 everybody that can get a seat, take a seat. And if they don't,
3 we want them to stand still. We just don't want any moving
4 in the room.

5 I would like to make this preliminary statement, that we
6 have been at this a long, long time, and I know that the Senate
7 committee has worked long and hard, and I know what the House
8 committee has done in all their hearings. And I want to repeat
9 again that in 63 markup sessions and in the full committee --
10 43 members on that committee -- we spent 22 days of marking up
11 this bill. And on the floor it took two months on and off to
12 get this bill by.

13 I think just almost two months, wasn't it, Paul?

14 Mr. Rogers. Just about.

15 Mr. Staggers. I just want to tell you what has been over
16 on our side since March 1975. And I think we are coming to
17 the end of this thing. We are getting fairly close, and we
18 are trying in the spirit of compromise to bring this back to
19 the Senate here. We are trying to think, too, of a bitter
20 vote on the House floor on the different issues. We are com-
21 promising in trying to bring, with the Senate, something that
22 will be in the best interests, we think, of the nation.

23 I would like to call on the subcommittee chairman to
24 present the proposals we came to in the conference.

25 Mr. Rogers?

1 Mr. Rogers. Thank you very much, Mr. Chairman.

2 In responding to the Senate proposal on striking the
3 discretionary Class I, the House agrees. And we would leave
4 forests as they are in both bills.

5 Mr. Staggers. No change at all. We will leave it as it
6 is.

7 Mr. Rogers. Accept it as both Houses did it.

8 Mr. Staggers. So we don't have any compromise at all.

9 Mr. Rogers. On the SO₂, the Senate proposed the figure
10 of 512. The House agrees.

11 On 3, I think you receded and agreed on the McKay to
12 keep the figure of 325, and you agreed with the loss of pay.

13 Now, on the autos, we would like to present you with
14 option A and option B.

15 I think we pretty well settled significant deterioration,
16 because we are in agreement. So it only appears now on autos --

17 Senator Muskie. What happened on Class I discretion?

18 Mr. Rogers. We agreed.

19 Mr. Staggers. We accepted almost everything the Senate
20 proposed to us.

21 Senator Domenici. Except the forests.

22 Mr. Rogers. We accept the way it is written in your bill
23 and in ours. You have it in Class II, and it is in Class II for
24 us.

25 Senator McClure. Oh, well, all right. Go ahead. That

1 is a nice play on words.

2 Mr. Rogers. Well, we thought they both put it in Class
3 II.

4 Senator Domenici. Will you agree that our II and your II
5 may become the same, we can substitute them?

6 Mr. Rogers. I thought it was the first Senate offer that
7 we had accepted, to strike the discretionary business in the
8 Class I.

9 Senator McClure. Okay.

10 Mr. Rogers. Now, on the option -- you can call it A or B,
11 either one. Option A -- 1978-79, 1.5, 15 and 2; 1980, .41,
12 3.4, 2; 1981, .41, 3.4, 1; 1982 to 1985, .41, 3.4, with
13 administrative discretion on NOx.

14 Senator McClure. You mean 1981, .41, 3.4, and you would
15 not have the 1 on NOx but it would be purely administrative?

16 Mr. Rogers. That would be 1982.

17 Senator Baker. But there would be no NOx statutory --

18 Mr. Rogers. It would be discretionary.

19 Senator McClure. That would be 1981?

20 Mr. Staggers. Let's get the next proposal of the gentle-
21 man. This was the one I hoped he would present first.

22 Mr. Rogers. All right. 1978, 1.5, 15 and 2; 1979, .41,
23 3.4, and 2; 1980, .41, 3.4, and 2; 1981, .41, 3.4, and 1 with
24 waiver to 2; 1982, .41, 3.4, NOx, administrative discretion
25 through 1985 and thereafter.

1 Mr. Carter. I believe we let the cat out of the bag. I
2 think we would have been wise to have kept one of the options
3 to trade on.

4 Mr. Staggers. I will agree with you, and I had meant for
5 the second option to go first.

6 Mr. Rogers. Mr. Chairman, if I may make a correction,
7 I have been advised that I did not state the option B on 1981
8 correction. It would be 1981, .41, 3.4, and I will ask Mr.
9 Satterfield to state --

10 Mr. Satterfield. It is not mine.

11 Mr. Rogers. Well, I thought you corrected me. I thought
12 you knew.

13 Mr. Broyhill?

14 Mr. Broyhill. I didn't say anything.

15 Mr. Rogers. You wanted to say not higher than 2 nor
16 lower than 1, discretion of the administrator?

17 Mr. Broyhill. That would make it within the scope of the
18 conference.

19 Mr. Rogers. Yes, because one bill had 1, one bill had 2.

20 (Brief recess)

21 Mr. Staggers. The committee will come to order, and those
22 who do not have a seat, we don't want them moving around.

23 I would call on the Senator from Maine, Senator Muskie.

24 Senator Muskie. Mr. Chairman, we have two subjects to
25 cover, and I would like Senator McClure to cover the first one.

1 Senator McClure. The first of the two points is in
2 regard to the position of the national forests. It would be
3 our position that the mandatory prohibition for classification
4 between Class II and Class III be removed, that the Federal Land
5 Manager of the forest lands be given one year to make a study
6 and recommendation on air quality values of the forest lands
7 as it relates to Class II and III, that the recommendation go
8 to the Congress and the State, and the State have the
9 discretion to act on the usual provisions set forth in the bill
10 after the one-year period, after the study and recommendation
11 is made.

12 Mr. Maguire. Would the gentleman yield for clarification?

13 Senator McClure. Surely.

14 Mr. Maguire. Would that be the State's discretion to act
15 in conformity with a recommendation, or without respect to the
16 recommendation?

17 Senator McClure. They would be free to act without
18 respect to the recommendation, but they could not act until
19 that recommendation had been made to them by the Federal Land
20 Manager.

21 Mr. Staggers. All right. We will have to take this
22 under consideration because of a couple of little points. Let's
23 hear the thing on your --

24 Senator Muskie. The second think that we would like to
25 discuss is raised by Senator Baker. I don't think it will be

1 particularly controversial, but I think it is important, and
2 he would like to present it.

3 Senator Baker. We have in both bills set up a series of
4 studies, and I propose to try to rationalize them by suggesting
5 certain studies for a National Air Quality Commission, similar
6 to the Water Quality Commission, and two other studies that
7 seem to me primarily regulatory should go to EPA with reports
8 to the Congress. I have prepared staff and legislative language
9 that will be available.

10 In brief, we agreed that the Air Quality Commission would
11 do the NOx emission penalty study, the economic study and
12 indirect source study. We will ask EPA to study on planned
13 particulates and sulfur emissions generally.

14 I won't burden the conference further with that except
15 to say we have the legislative language ready for your
16 examination on that point.

17 Mr. Staggers. The gentleman from New Jersey.

18 Mr. Maguire. I have discussed this with some of the
19 conferees on both the House and Senate side, and I wonder if
20 Senator Baker might add into the studies that will be done by
21 the Air Quality Commission one which was presented originally
22 by the House side on standards for schoolbus CO emissions.

23 Senator Baker. I have no objection.

24 Mr. Waxman. I think it should be broader than that.

25 Mr. Rogers. It actually should be EPA, shouldn't it?

1 Senator Baker. I would be glad to do it with the Air
2 Quality Commission, or we could request EOT.

3 Mr. Rogers. They have been working on this type of
4 problem.

5 Mr. Waxman. Will the gentleman yield?

6 I had talked to Mr. Maguire about this, and I think it
7 would be not just schoolbuses, but all buses. Of course, it
8 is just a study, and I hope you won't have any objections.

9 Senator Baker. None whatever.

10 Mr. Rogers. May I say that is outside the scope of the
11 conference, I am afraid, because only schoolbuses were
12 mentioned. I would agree with the gentleman, I would like to
13 see it, but I think we would have to restrict it to school-
14 buses, unfortunately.

15 Mr. Staggers. We can take up the next proposal that the
16 gentleman has.

17 Senator McClure. I did discuss this matter, and I do support
18 the study as outlined on the schoolbus.

19 Senator Muskie. On the third matter, the Senate
20 conferees were intribued by the procedural approach of the
21 House conferees, and so we are presenting an option A and an
22 option B. Option A, 1978 and 1979 would be 1.5, 15 and 2.0;
23 for 1980 and thereafter, .4 3 1, and 1.0. Option B, 1979 and
24 1980, .4, 3.4, 2.0; 1981 and thereafter, .4, 3.4, 1.0.

25 Mr. Rogers. Could we caucus?

1 Mr. Staggers. We can caucus, but I would say to the
2 gentlemen it doesn't offer much hope. As I said before, we
3 have a mandate from our side that is as strong as any I have had,
4 from 435 men, and I just don't see how.

5 We will come back.

6 (Brief recess)

7 Mr. Staggers. The committee will come to order.

8 We have a counterproposal. I hope that this is satisfac-
9 tory. We are close, very close. I will call upon the
10 subcommittee chairman again to give an explanation.

11 Mr. Rogers. Thank you, Mr. Chairman.

12 We basically would proceed with your proposal B with a minor
13 modification -- 1978 is 1.5, 1.5 and 2; 1979 and 1980 would be
14 .41, 3.4 and 2; 1981 would be .4, 3.4, 1.5; and 1982, .4, 3.4
15 and 1, thereafter.

16 In fact, the only change you see in that proposal was
17 saying in 1981 on NOx 1.5 and 1982, then, go to the 1 on down;
18 just split that one difference. We take your 1979 figure of
19 .41, 3.4. You see, we accepted that.

20 Mr. Staggers. We split the difference on the year of
21 1981.

22 Mr. Rogers. We went with your figure in 1979.

23 Senator Muskie. You are giving us 1.0 in 1981.

24 Mr. Rogers. We gave what you wanted in 1979 for a half
25 point in 1981.

1 Senator Baker. Plus two more years on the schedule. We
2 get to 1.0 in 1980, and you get to it in 1982.

3 Mr. Staggers. Not on your B proposal that you suggested.
4 We split the difference on the one year, and that is all.

5 Senator Baker. That is right. On the B proposal that
6 is right.

7 Mr. Rogers. We gave you that, but just half a point there.

8 Mr. Staggers. In the year 1979 we gave you that for the
9 half point in 1981.

10 Mr. Rogers. Can you decide? Do you think you can settle
11 it?

12 Senator Muskie. I don't think so.

13 Mr. Rogers. You want to go ahead on the forest situation?
14 I think that was the other point.

15 It appears to us that this proposal is mainly out of the
16 scope of the conference, and I think the staff ought to check
17 that to see if they can concur. And I think we should not
18 subject the bill to a point of order if it is outside the scope,
19 and we believe it is.

20 We would propose to try to cooperate with the study to be
21 done by EPA and the Forest Service on this situation and to
22 report back to the Congress and to us within a year so we may
23 take action consistent with what those --

24 Senator McClure. May I speak to that point? First of all,
25 I don't see how it could be outside the scope of the conference

1 when your Class II and III are our Class II. They are
2 encompassed together. I don't think it is at all possible
3 that the treatment of forests, which we had considered and
4 rejected for inclusion in Class I mandates and had put in
5 Class II, and our Class II covers all the ground of your Class
6 II and III -- I don't see how that could possibly be outside
7 the scope of the conference.

8 Mr. Waxman. Would the gentleman yield?

9 Speaking for myself and some of the other members in the
10 meeting, that wasn't the reason it was rejected. We thought
11 a study would be more helpful before we reached the conclusion
12 that was being thrust upon us. I myself am not willing to go
13 with what the gentleman is suggesting, and it has nothing to
14 do with the range of the conference.

15 Senator McClure. I understand that. But the difficulty
16 we have in many western States is the national forests are a
17 large percentage of the areas of our States. And you are asking
18 us without any study of the impact to accept a mandatory Class
19 II under your proposal, and that is something we find just
20 totally impossible to accept.

21 Mr. Maguire. If you look at the mandatory Class II that
22 the House originally had and you study it, I think you will
23 find -- and it is much more generous with the compromise
24 increments -- that a tremendous amount of economic development
25 -- indeed, probably additional economic development -- is

1 available if you build your industries more cleanly and so on.
2 And 95 percent of the power plants that have been proposed
3 can be cited under the old House Class II.

4 I mean, we are getting into some of the arguments we made
5 during the debates. I think Class II shouldn't be thought of
6 by the conferees as a restrictive thing, particularly now that
7 the increments have been moved considerably toward the Senate
8 position.

9 Mr. Rogers. May I just point out why we think it may be
10 out of the scope, and if you would consider this and let the
11 staff, too, consider it.

12 If you would comment on this --

13 Mr. Schwartz. The agreement earlier by the conferees
14 for Class III SO_2 was 40, 182 and 700. The Class II SO_2 in
15 both bills, the largest number was 20 from the House bill for
16 annual, 100 from the Senate bill for 24, and 700 for 3-hour.
17 Therefore, the proposal for the annual and the 24-hour of 40
18 and 182 is out of the scope of the conference. 700 would be.
19 A similar problem develops with the particulate.

20 Senator McClure. But the three-hour test in our Class II
21 is as high as it is in your Class III.

22 Mr. Schwartz. But each operates independent of the other.

23 Senator McClure. You are trying to say we can deal with
24 it in only one class that you have and not the other. That
25 kind of rule militates against any kind of free negotiation

1 between the conferees and it is not a position we can accept.

2 Mr. Maguire. In terms of ordinary common sense, the
3 gentleman is quite right. But we had the same problem earlier
4 with respect to whether or not we could add to the mandatory
5 Class I, and we were told it was outside the scope of the
6 conference even though common sense told you we could have
7 shifted from mandatory into discretionary. So apparently
8 these rules are drawn very strictly.

9 Senator McClure. I don't think anybody in the conference
10 or anybody in the Congress could assure us that you could build
11 another sawmill within a national forest, that you could have
12 another mine open up with a mill site that is locatable under
13 the current law and have it operate within a national forest.
14 I don't think anybody could tell us that you could build the
15 kind of road system that might be necessary for access through
16 a national forest without a violation of the Class II standards.

17 Mr. Maguire. Not the generous Class II standards we
18 have now, I don't think.

19 Mr. Rogers. Do you think where we have done away with
20 discretionary Class I areas, that it is not realistic to say,
21 where we have increased the increment to over 500, to say at
22 least for one year to let them stay within that area while we
23 are having a study?

24 Senator McClure. That is exactly what I said. For that
25 year they would be in the study, pending the study, and then

1 the State would have the authority to take the action which
2 they wanted to take pursuant to the rather rigorous
3 procedural requirements the House has in it in regard to the
4 approvals. But they would be in Class II initially, and they
5 could take no action during that one year.

6 Mr. Maguire. But the study might show that everything
7 you wanted to be accomplished would be in Class II, and Class
8 III could be very detrimental to the --

9 Senator McClure. I can see the possibility, and I expect
10 the Federal Land Manager might recommend for all or a portion
11 of the forest be subject to some kind of rigorous examination
12 by the Federal Land Management Agency, that they would want to
13 preserve the Class II.

14 Mr. Maguire. Why not have it that the State could act
15 only in conformity with whatever the recommendation is?

16 Senator McClure. That flies in the face of everything
17 we have tried to do in the entire bill in terms of giving the
18 States the authority to act on these classification matters.
19 That is in the House bill..

20 Mr. Rogers. I do think we do have the scope of conference
21 problem there, Senator, on those two increments. I realize
22 the 700 is in, but I think the other two increments are not.
23 And if we could do this study for you and try to get a
24 response so that we could take action, I think it should be
25 looked at. And I think we could put the requirement of study --

1 Senator McClure. Do the conferees know of the public
2 lands that are involved in the United States, less than half
3 of them are national forests? The other half of the public
4 lands that you haven't dealt with at all are BLM lands. You
5 haven't given them that tender solicitude. Why the double
6 standard? Why are you saying for that one-third of my State
7 that is BLM lands, you can do one thing; and for the other
8 third that is in the national forest, you do it another way?

9 Mr. Rogers. Maybe a study would show we should have a
10 consistent policy.

11 Senator Morgan. The trouble with the study is the
12 irreparable harm that may be done to the people in Western
13 North Carolina, over 100 miles west of Asheville.

14 Mr. Waxman. Would the gentleman yield? The irreparable
15 harm --

16 Senator Morgan. Let me finish, and then I will yield
17 all evening.

18 All our sawmills have been stopped, or most of them,
19 because of the clear cut. Now that we are about to get that
20 problem solved, if they run into this, we could do an awful
21 lot of irreparable harm to the people there, the industries.

22 Mr. Rogers. As I understood the proposition, it was that
23 nothing would be done for a year until the study was done,
24 under your proposal.

25 Senator Morgan. But if it could be corrected, then they

1 could survive. But if you have got to come back for another
2 year and wait for another Congress to deal with it, it might
3 be too late.

4 Senator Domenici. Would the Senator yield?

5 Senator Morgan. Yes.

6 Senator Domenici. I would like to make an observation
7 with regard to national forests. I think because they have
8 that name, that we conclude that they are a rather homogenous
9 piece of real estate. They are large and they are national,
10 but I submit that in States like mine, that the national
11 forest is part grazing, part real forest, part open land, part
12 close to cities, large and small. And I think we really are
13 making a mistake, because it sounds like they are something
14 homogenous and as pristine as wilderness must be by definition,
15 when what we are trying to do is protect them, but we are
16 trying not to take a third of the State and asy because it has
17 got a national forest, we are going to treat it as if it is
18 all one kind like some piece of it.

19 I think the managers of the forest will, under Senate
20 proposal, take a real look at all or part of it. And I think
21 their desire is to protect it, and we will get a firm
22 recommendation from them as to what part really needs air
23 quality protection and what part does not.

24 I thank you, Senator.

25 Mr. Staggers. We would like to yield to the gentleman

1 from Florida for a proposal to the Senate.

2 Mr. Rogers. Maybe we should caucus, and the Senate might
3 want to caucus. We could do it very quickly. Maybe we can
4 do it around the table closely.

5 Mr. Maguire. What is the Senate position on this matter?
6 What is the Senate position on the forest matter?

7 Mr. Rogers. Maybe you would like to restate it.

8 Senator McClure. Our position was that the forests would
9 be automatically in Class II, subject to the Federal Land
10 Manager's study for one year and recommendation on that
11 classification.

12 Mr. Maguire. So it is still the same as it was when you
13 stated it.

14 Senator McClure. Yes.

15 Mr. Staggers. The House will have a meeting right here
16 in the corner, if you would.

17 (Brief recess)

18 Mr. Staggers. The committee will come to order, and those
19 standing up will find a seat.

20 I would like to ask the Senate, we made a proposal to
21 them, what the response is.

22 Senator Muskie. Mr. Chairman, to put it in the most
23 neutral language possible, we don't see any possibility for
24 agreement tonight.

25 Mr. Staggers. The gentleman from Florida?

1 Mr. Rogers. I still hope we can come to some agreement.
2 I think the House has tried to respond, and I am sure the
3 Senate has as well.

4 I would move that the House, then, present to the Senate
5 the following proposal for automobiles: 1977, 1.5, 15 and 2;
6 1978, 1.5, 15 and 2; 1979, .41, 3.4 and 2; 1980, .41, 3.4
7 and 2; 1981, .4, 3.4 and 1, thereafter to 1985.

8 Mr. Staggers. The House members have heard the proposal
9 of the gentleman from Florida.

10 The gentleman from North Carolina.

11 Mr. Broyhill. Do I understand that the gentleman from
12 Florida is moving that the House conferees accept the Senate
13 proposal?

14 Mr. Rogers. In effect, I guess that is the Senate
15 proposal, is it not?

16 Senator Muskie. Option B.

17 Mr. Rogers. I do move that.

18 Mr. Broyhill. Very briefly I would point out to the
19 House conferees that when you compare the Senate proposal
20 to the House committee bill that was voted out of committee
21 and defeated on the House floor, that that Senate proposal
22 is more strict and is really less than what was in the House
23 committee bill, and it was defeated by a decisive vote in the
24 House chamber. And I would urge that the committee conferees
25 reject it.

1 Mr. Rogers. May I say, of course, I realize there is a
2 difference and that is the point of the conference. The point
3 of the conference is we just digest our views. The Senate
4 refuses to do anything further, and we think it is important
5 to get a bill. So I move we take a vote.

6 Mr. Stagers. You have heard the motion of the man from
7 Florida. All in favor will let it be known by saying aye;
8 opposed, no.

9 The ayes appear to have it.

10 Mr. Broyhill. Show of hands, Mr. Chairman.

11 Mr. Stagers. The gentleman of North Carolina has asked
12 for a show of hands. All in favor will raise their hands
13 until counted; all opposed will raise their hands until counted.

14 Clerk. Six ayes and four noes, I count.

15 Mr. Stagers. The vote is so carried on our side.

16 Mr. Rogers. Mr. Chairman, may I say I hope the Senate
17 will agree on the House position on the forests. We have
18 tried to make a concession. We ask that the forests be kept
19 into Class II and a study be done, which is consistent. We
20 want to try to be fair. It seems to me, if we would stav
21 within the scope of the conference and the Senate would keep
22 that their provision of Class II increment so we don't get
23 outside the scope, either way --

24 Mr. Stagers. The gentleman from Kentucky was seeking
25 recognition.

1 Mr. Carter. I didn't hear the words of my chairman
2 concerning this particular issue, and I would like to ask him
3 what he said.

4 Mr. Rogers. I was saying I was hoping that the Senate
5 would, since we have now agreed with the auto provisions,
6 now agree with the House position on forests.

7 Senator McClure. I understand that there is a
8 difference of opinion within the House conferees as to the
9 reasons why they rejected the Senate position. Most strongly
10 urged to me in rejecting the Senate position on the forests is
11 it would be subject to a point of order. I don't believe that
12 is true. And I realize that all things are possible in the
13 rulings of the parliamentarian.

14 If, as a matter of fact, the Senate proposal was not
15 subject to a point of order, would the House accept it if it
16 were not subject to a point or order? Or is it going to be
17 rejected on its merits?

18 Mr. Waxman. If the gentleman would yield to me --

19 Earlier the gentleman stated about the forests that are in
20 his State. I come from the State of California, and I think we
21 have more national forests in our State than you have in yours.
22 And on the merits of your proposal, I would resist it. I
23 think that what we are suggesting in the House bill in granting
24 a study to ascertain whether the gentleman's contentions are
25 correct -- as far as I am concerned, I would urge my House

1 colleagues to reject it.

2 Mr. Rogers. Mr. Chairman, I would hope that the Senate
3 would accommodate the House on this. We have tried to
4 accommodate in every way possible, and I would hope the Senators
5 would go along with a study and let us put this in Category II
6 for a year, which I think he proposed anyhow.

7 Mr. Carter. Mr. Chairman, on that very thing, I have been
8 over this with the civil engineer by the name of Howard Baker,
9 who happens to be a United States Senator from the State of
10 Tennessee --

11 Senator Baker. I am not an engineer, though.

12 Senator Muskie. He is always civil, though.

13 Senator Baker. I plead guilty to the civil part.

14 (Laughter)

15 Mr. Carter. Very civil, I would say. But in going over
16 this, actually, I wonder if it is as damaging as it is thought
17 to be. I want to protect the forest lands very much. But
18 just mathematically considering what proportion or part of a
19 meter or pollutant we would have, it comes to one two-billionth.
20 That is one part to two billion. And the Senator checked my
21 figures, I believe. He thought I was right. And I know the
22 hour is growing late and our estimate might easily be off, but
23 I don't believe so.

24 And that way, actually going down a road or a trail in a
25 forest would throw up more particles than we are permitting by

1 this legislation.

2 Now, we are talking about 512 micrograms per cubic meter,
3 and that really refers to one trillion, or 10 to the 12th power.

4 I yield back.

5 Mr. Rogers. Mr. Chairman, I do hope the Senate can
6 accommodate the House on this so we can conclude this soon.

7 Mr. Broyhill. As the Senator from Idaho did point out,
8 there is disagreement on this issue also on the House side.
9 And I, of course, realize we have been outvoted, but let me
10 be heard on a point of order, if I could.

11 Mr. Staggers. Go ahead.

12 Mr. Broyhill. If both the House and Senate provisions
13 were stricken, present law would prevail. Certainly what the
14 Senator is proposing is well within the limits of present law.

15 Senator McClure. I thank the gentleman for that. I would
16 find that to be my position and my argument, because I think
17 that if it is completely stricken, then we could provide for the
18 study and recommendation. That is certainly within the scope
19 of the conference. But I think we clearly have the power to
20 strike it. That is clearly within the scope of the conference.

21 Mr. Rogers. I move the forests be taken out of the bill
22 and be left under current law.

23 Mr. Staggers. You have heard the motion from the
24 gentleman from Florida.

25 Mr. Waxman. Could the gentleman clarify what he is

1 proposing?

2 Mr. Rogers. It is my understanding that they have no
3 mention of the forest lands; we do. We we strike forest lands
4 out, and it goes under present law and EPA regulations.

5 Mr. Waxman. What effect will that have on the regulation?

6 Mr. Rogers. Feder Land Manager makes the decision.

7 Mr. Waxman. And then what amount of increment is there
8 allowed to despoil the national --

9 Mr. Rogers. The decision is made by the --

10 Mr. Waxman. Not within the guidelines of Class I, II, or
11 III outlined in the --

12 Mr. Rogers. That I don't know. But it is made by the
13 Federal Land Manager under EPA regulations.

14 Mr. Staggers. I thought we would have a vote over here
15 and bring it to you fellows as a proposal.

16 The gentleman from Florida has made a motion. All in
17 favor of the motion by the gentleman from Florida will let it
18 be made known by saying "aye; all opposed, no.

19 The ayes have it on our side, and the proposal is up to
20 the Senate.

21 Senator Muskie. That settles the matter.

22 Mr. Staggers. You are ready to sign this?

23 All right. This seems to bring this conference to an end,
24 and those who will sign the conference report will sign it
25 now, and those who won't, why, won't, I don't guess.

(Whereupon, at 11:10 p.m., the conference committee adjourned)

